

## IN THE MICHIGAN COURT OF APPEALS

### ORDER

Re: **In Re Estate of Ernest J Lager**  
Docket No. **275437**  
L.C. No. **05-177007 DE**

William C. Whitbeck, Chief Judge, acting under MCR 7.203(F)(1) and 7.216(A)(10), orders:

The claim of appeal filed January 4, 2007 in the Court of Appeals is DISMISSED for lack of jurisdiction because it was not filed in the Court of Appeals within 21 days of the August 15, 2006, MCR 5.801(B)(1)(l) final order as required by MCR 7.204(A)(1)(a). The lower courts lacked any authority to file any orders that would extend the time period for filing the claim of appeal in this Court. See MCR 7.208(C)(1). Furthermore, there is no responsibility on any Court to label an order a final order. What MCR 2.602(A)(3) provides for is a statement as whether there are any pending claims and whether it closes the case. Ultimately, it is the responsibility of the appellant to determine whether the order is a final order under MCR 5.801(B)(1) and to file the claim of appeal timely in the Court of Appeals. In this case the August 15, 2006, order clearly fell within MCR 5.801(B)(1)(l). There is no provision in the court rules that permits a circuit judge to transfer a claim of appeal to the Court of Appeals. This dismissal is without prejudice to filing an application for delayed appeal in the Court of Appeals pursuant to MCR 7.203(B)(5).



A true copy entered and certified by Sandra Schultz Mengel, Chief Clerk, on

FEB 14 2007

Date

*Sandra Schultz Mengel*  
Chief Clerk